

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

In re:

BARBARA LYNN ERICKSON,

Debtor.

Case No. 23-00488

Chapter 7

Hon. James W. Boyd

Date of Filing: 03/09/2023

BARBARA LYNN ERICKSON,

Plaintiff,

v

Adv. Pro. No. 23-_____

U.S. DEPARTMENT OF EDUCATION,

Defendant.

**COMPLAINT TO DETERMINE
DISCHARGEABILITY UNDER 11 U.S.C. § 523(a)(8)**

NOW COMES Plaintiff, Barbara L. Erickson, (“Plaintiff”), by and through her undersigned counsel, Michael P. Corcoran, and hereby files this Complaint to Determine Dischargeability pursuant to 11 U.S.C. § 523(a)(8) and alleges as follows:

JURISDICTION

1. The Honorable Court has jurisdiction over this Adversary Proceeding pursuant to 28 U.S.C. § 157(b)(1); 28 U.S.C. § 1334(a) and (b) and FRBP 4004 and 4007.
2. Venue is proper in this Court pursuant to 28 U.S.C. § 1409.
3. This is a Core Proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (I).
4. This is an action seeking a determination that the debt Plaintiff owes to Defendant is dischargeable pursuant to 11 U.S.C. § 523(a)(8).

FACTUAL ALLEGATIONS

5. Defendant is a government entity.
6. Defendant is the student loan creditor of the above-entitled bankruptcy case, and is responsible for the overall operation of the guaranteed federal student loan program.
7. Plaintiff is an individual and resides in Manistee County, State of Michigan.
8. Plaintiff is the Debtor of the above-entitled case under Chapter 7 of the Bankruptcy Code filed in this Court on March 09, 2023.

PRELIMINARY STATEMENT

9. Plaintiff incurred educational debt through the United States Department of Education. That debt is listed in her NSLDS file as \$80,380.00.
10. The loans were incurred in pursuit of a degree at Western Michigan University 2006, and Northern Michigan University from 2006 to 2008.
11. Plaintiff does not have the ability to make payments on those student loans while maintaining a minimal standard of living for herself. Plaintiff earns no income and is subsisting on Social Security income only and is therefore well below the median income.
12. Plaintiff made good faith efforts to earn income, manage expenses and repay the loans. The debt was consolidated on July 02, 2010. At the time of the filing of the Chapter 7, the Plaintiff was enrolled in an Income Based Repayment Plan with the U.S. Department of Education until such time as the loans were put into deferment due to the COVID-19 pandemic relief policies.
13. Plaintiff's inability to make payments is likely to persist in the future and her long-term financial situation is unlikely to improve because she is 73 years old with morbid

hypertension, and has a limited work history.

14. Payment of the loans would impose an undue hardship on the Plaintiff.

15. The interests of good faith and justice support the requested relief.

STUDENT LOAN DEBT IS DISCHARGEABLE UNDER 11 U.S.C. § 523(a)(8)

16. The Bankruptcy Code, at 11 U.S.C. §523(a)(8), provides that student loans may be determined to be dischargeable under the “undue hardship” clause.

CONCLUSION AND REQUEST FOR RELIEF

WHEREFORE, Plaintiff requests that this Honorable court grant the requested relief to determine that the Plaintiff’s subject loans are dischargeable.

Respectfully Submitted,

July 6, 2023
Date

/s/ Michael P. Corcoran
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